

### **REMARKS**

Claims 1-4, 6, and 9-13 are pending. Claim 4 has been amended to delete reference to non-elected sequences. Claims 5, 7-8, 14-17 have been cancelled without prejudice. Applicants reserve the right to prosecute subject matter withdrawn from consideration by cancellation or amendment in one or more continuation, continuation-in-part, or divisional applications.

### **THE RESTRICTION REQUIREMENT**

In the Official Action, restriction under 35 U.S.C. §121 is required to one of the following groups of inventions:

- I. Claims 1-4 and 9-13, drawn to a recombinant expression cassette and a recombinant plant cell;
- II. Claim 5 and 14-17, drawn to an isolated 3' termination sequence;
- III. Claim 6, drawn to a method for isolating a recombinant protein;
- IV. Claim 7, drawn to a method of identifying non-plant 3' termination sequences that are functional in plants; and
- V. Claim 8, drawn to a method for making a transgenic plant.

The Examiner contends that the inventions of Groups I through V are distinct. Additionally, the Examiner considers each nucleic acid contained in Groups I and II to be a distinct invention. Accordingly, Applicants are required to elect a single sequence if either Group I or II is elected to be searched and prosecuted in the instant application.

In order to be fully responsive, Applicants provisionally elect, with traverse, the invention of Group I, claims 1-4 and 9-13, and SEQ ID NO:1 to prosecute in the present application without prejudice to prosecution of the subject matter of the non-elected Groups and sequences in subsequent applications.

The M.P.E.P. § 803 (Eighth Edition, Incorporating Revision No. 2, May 2004) states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants request reconsideration of the restriction requirement, particularly restriction of Group I and Group III. Applicants contend that claim 6 can be included in Group I without causing a serious burden to the Examiner. Claim 6 is drawn to a method for isolating recombinant protein from a plant cell. The recombinant protein is expressed from a recombinant expression cassette that has been transfected into a plant cell. The recombinant expression cassette comprises a polynucleotide encoding the recombinant protein of interest linked to the 3' termination sequence of claim 1. Due to Applicants' election, the Examiner will be searching and examining claim 1. As such, there is a link between the claims in Group I and claim 6. Accordingly, Applicants respectfully request that the Restriction Requirement Under 35 U.S.C. § 121 be modified and the instant claims be examined in one application.

#### **CONCLUSION**

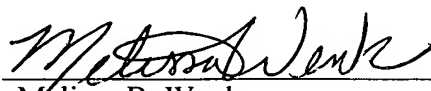
It is believed that the elected claims are in condition for allowance. Early and favorable action by the Examiner is earnestly requested.

#### **AUTHORIZATION**

No fee is believed due. However, the Commissioner is hereby authorized to charge any fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 2119-4281US1.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

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